

## Message Text

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21

ACTION EB-07

INFO OCT-01 NEA-10 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 CIEP-01 FAA-00 L-03 /031 W

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R 140758Z OCT 76

FM AMEMBASSY KUWAIT

TO SECSTATE WASHDC 6431

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E.O. 11652: N/A

TAGS: EAIR KU

SUBJECT: CIVAIR: TIA CHARTER PROBLEM

REF: STATE 231080

1. TIA REP BRYAN OWEN VISITED EMBASSY AND DISCUSSED RESULTS OF HIS DISCUSSIONS WITH GOK DIRECTORATE GENERAL, CIVIL AVIATION (DGCA) OFFICIALS AND WITH KUWAIT AIRWAYS CORPORATION (KAC) ON SUBJECT PROBLEM (REFTEL). EMBOFF ALSO ACCOMPANIED OWEN TO MEETING WITH DGCA AIR TRANSPTRT CHIEF TO DISCUSS GOK POLICY CONCERNING CHARTER AIRLINE OPERATIONS. FROM THESE CONVERSATIONS, EMBASSY HAS PUT TOGETHER FOLLOWING SUMMARY OF SPECIFIC CHARTER DIFFICULTY AND OF GENERAL GOV PTLICY.

2. TIA CHARTER FLIGHT INVOLVED TRANSPORT OF FEDDERS REGIONAL GULF SALES RENS TO THE UNITED STATES FOR A BICENTENNIAL CELEBRATION. FLIGHT OF APPROX 119 PERSONS SMHEDULED FOR DEPARTURE FROM KUWAIT SEPTEMBER 24, WITH STOP IN FRANKFURT TO PICK UP A FEW ADDITIONAL PASSENGERS. OWEN REPTRTD THAT TIA HAD TELEXED DGCI BEGINNING SEPTEMBER 2ND REQUESTING CLEARINCE FOR FLIGHT, BUT HAD BEEN IN-

FORMED, JUST PRIOR TO ARRIVAL, OF VAM COMMERCIAL GEE PROVISIONS.

3. ACCORDING TO DGCA AIR TRANSPORT CHIEF, GOK REQUIRES THAT ALL NON-SCHEDULEDAIRCARRIERS REACH WHAT HE TERMED A "COMMERCIAL LIMITED OFFICIAL USE

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AGREEOENT" OR "UNDERSTANDING" WITH NATIONAL AIR CARRIER, KAC,

BEFORE BEING ALLOWED TO FLY INTO KUWAIT. THIS IS DONE TO PROTECT KAC FROM POSSIBLE LOSS OF REVENUE WHICH WOULD OCCUR FROM UNRESTRICTED ENTRANCE OF NON-SCHEDULED CARRIERS (INCLUDING CHARTER AIRLINES) OPERATING ON ROUTES SERVED BY KAC.

4. EMBOFF QUERIED

DGMA OFFICIAL AS TO SPECIFICS OF THIS POLICY AS IT APPLIED TO TIA CASE. IN PARTICULAR, EMBOFF ASKED WHY TIA WAS INFORMED OF POLICY SO LATE (LESS THAN ONE WEEK BEFORE SCHEDULED DEPARTURE). EMBOFF ALSO ASKED WHAT WOULD BE THE CASE IF TIA FLIGHT FOLLOWED A ROUTE NOT SERVED BY KAC. DGCA ANSWERED FIRST QUESTION BY STATING THAT DGCA HAD NOT RECEIVED EARLY TELEXES FROM TIA, WHICH APPARENTLY HAD BEEN ROUTED THROUGH AN UNRELIABLE BEIRUT CHANNEL. DGCA OFFICIAL INDICATED, IN RESPONSE TO SECOND QUESTION, THAT THESE WERE MATTERS TO BE DECIDED BY KAC AND TIA IN NEGOTIATING THEIR UNDERSTANDING, I.E., KAC IS GIVEN WIDE LATITUDE IN ITS ABILITY TO DETERMINE WHETHER IT BEING HURT BY CHARTER OPERATION AND WHETHER IT CAN PROVIDE ALTERNATE SERVICE.

5.

OWENS INFORMED EMBOFF THAT KAC HAD AT FIRST BEEN WILLING TO OFFER THE USE OF ITS 737 JET (FORMALLY RESERVED FOR THE AMIR) TO FLY PASSENGERS TO FRANKFURT. ALMOST IMMEDIATELY HOWEVER, KAC WITHDREW OFFER, CITING INABILITY TO PROVIDE JET. KAC NEXT DEMANDED PAYMENT BY TIA OF A COMMERCIAL NON-OBJECTION FEE AMOUNTING TO AROUND US DOLS 38,000 (BASED ON 30 PERCENT OF ECONOMY FARE EACH WAY PER PASSENGER). TIA REFUSED TO PAY THIS SUM, CALLING IT "OUTRIGHT BLACKMAIL". (OWEN SPECULATED THAT USG LEGAL RESTRICTIONS WERE INVOLVED.) FINALLY, AFTER MUCH HAGGLING AND CONFUSION, AGREEMENT WAS REACHED AT LAST POSSIBLE MOMENT ALLOWING THE TIA PLANE TO LAND IN RETURN FOR A PAYMENT OF A LESSER AMOUNT (APPROX 15,000) BY THE LOCAL AGENT OF FEDDERS TO KAC IN WHAT WAS CALLED SALES AGREEMENT. TIA REP OWEN ACKNOWLEDGED THAT TIME PRESSURE WAS INVOLVED IN DECISION IT REACH AGREEMENT, IT BEING TOO LATE TO INFORM PASSENGERS OF FLIGHT CANCELLATION.

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6. COMMENT: GOK POLICY

REQUIRING COMMERCIAL AGREEMENT WITH KAC IS OF LONG STANDING. PECULIAR CIRCUMSTANCES IN TIA CASE WHICH CAUSED SOME OF DIFFICULTY AROSE FROM FAILURE OF LATTER'S TELEXES TO REACH DGCA SOON ENOUGH. IT IS EMBASSY IMPRESSION THAT SUCH AGREEMENTS ELSEWHERE, SO FAR AS THEY EXIST, ARE FAR MORE LIMITED IN SCOPE BY CIVIL AVIATION OFFICIALS. GOK DGCA'S TECHNICAL AND ADMINISTRATIVE CAPABILITY, HOWEVER, IS LIMITED, AND IT IS NOT

UNCOMMON FOR KAC TO HAVE LEADING ROLE IN DETERMINING CIVIL AVIATION POLICY.

7. ACTION REQUESTED EMBASSY CONVEYED USG OPINION TO DGCA OFFICIAL THAT POLICY IN REGARD TO PAYMENT OF COMMERCIAL FEES WAS INAPPROPRIATE, AS REQUESTED REF A, PARA 3. EMBASSY WAS HAMPERED BY

FACT THAT IT LACKED SUFFICIENT BACKGROUND ON ISSUE.

EMBASSY DID NOT KNOW HOW COMMON COMMERCIAL AGREEMENT PRACTICE IS WORLDWIDE, WHAT ACCEPTABLE FEE WOULD BE UNDER CIRCUMSTANCES, NOR SPECIFIC REASONS WHY

USG FOUND "COMMERCIAL FEE" PRACTICE

REPREHENSIBLE. IN ORDER TO BE BETTER PREPARED FOR ANY SIMILAR CIVIL AVIATION PROBLEMS

WHICH

MAY OCCUR, AND POSSIBLY TO TAKE

UP QUESTION AS OPPORTUNITY PRESENTS ITSELF, EMBASSY

WOULD

APPRECIATE BACKGROUND INFORMATION AND CLARIFICATION OF USG POLICY REGARDING COMMERCIAL AGREEMENT FEES.

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
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**Disposition Date:** 28 MAY 2004  
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